HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1138(S/S)2003

Salim Khan S/o late Sri S. Khan,
Serving as Senior Clerk,
Govt. Girls Inter College, Nainital ---- Petitioner.

Vs.

1. Joint Director of Education Kumaon Region Nainital,
2. Deputy Director of Education (Secondary),
   Kumaon Region, Nainital,
3. Principal Govt. Girls Inter College, Nainital,
4. Sri Om Prakash S/o Late Sri Chhote,
   Serving as Peon, G.G.I.C., Nainital,
5. Smt. Manorama Yadav,
   Presently posted as Principal G.G.I.C., Nainital.

----Respondents.

Sri Manoj Tewari, learned counsel for the petitioner,
Learned Standing Counsel for the respondent nos. 1, 2 &3.
Sri G.G. Kandpal, Adv. for respondent no. 4.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Alok Mehra Adv. holding brief of Sri Manoj Tewari, learned counsel for the petitioner, learned Standing Counsel for the State/respondent nos. 1, 2 & 3 and Sri G.C. Kandpal Adv. for respondent no.4.

2. Counsel for the parties are agreed that the writ petition may be decided at the admission stage itself.

3. By means of this writ petition, the petitioner has prayed for the following reliefs:-

A. To issue a writ, order or direction in the nature of certiorari for quashing the impugned suspension order dated 22.09.2003 passed by respondent no.1,

B. To issue a writ, order or direction in the nature of mandamus restraining the respondent no. 1, 2 & 3 from harassing the petitioner in any manner whatsoever,

C. To issue any other suitable writ, order or direction as this Hon'ble Court may deem fit and proper in the facts and circumstances of the case,

D. To award the cost of the writ petition in favour of the petitioner.

4. It is contended that the petitioner, who was working as Head Clerk, in Govt. Girls Inter College, Nainital, was suspended vide order dated 22.09.2003 passed by respondent no.1. This Court on 26.09.2003 has stayed operation of the impugned order dated 22.09.2003, however the inquiry initiated against the petitioner was directed to be expedited and concluded within a period of two months from the date of passing of the order.

5. The respondent no. 1 & 2 have filed counter affidavit. In para-12 of the counter affidavit, it is stated that after receiving the report of the preliminary inquiry dated 31.05.2003, a charge sheet was given to the petitioner and the petitioner was suspended. Since there was an order of this Court staying the suspension order and, further directions were given to conclude the inquiry within a particular period, the respondent no.1 on 07.10.2003, in compliance of the Court's order, has appointed the Principal, District Education and Training Institute, Almora as the Inquiry Officer. The Inquiry Officer has already concluded the inquiry and has submitted its report to the Joint Director of Education, Kumaon Region, Nainital.

6. The petitioner has moved an application no. 5738 of 2006 before this Court. In para-4 of the application, replying the averments made in para-12 of the counter affidavit, it has been submitted that more than two and half years have elapsed since the Hon'ble Court have passed the order for concluding the enquiry within two months, but till date no final order has been

passed by the respondents. As such, the petitioner has prayed to direct the respondents to pass final order in the petitioner's matter.

7. In these circumstances, I deem it fit and proper to direct the respondent no. 1 i.e. the Joint Director of Education, Kumaon Region, Nainital to pass final order in respect of the disciplinary inquiry initiated against the petitioner.

8. Accordingly, I direct the Joint Director of Education, Kumaon Region, Nainital to pass final order in respect of the disciplinary inquiry conducted against the petitioner within a period of two weeks from the date of receipt of a certified copy of this order.

9. With this direction, the writ petition is finally disposed of.

(M.M. Ghildiyal, J.)

May 22, 2006:
NCM: